

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13085, of Robert E. Losch, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to use the subject premises as offices of a law firm in an SP-1 District at the premises 1716 New Hampshire Avenue, N.W. (Square 153, Lot 69).

HEARING DATE: November 14, 1979
DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. The subject property is located in an SP-1 District on the southwest corner of the intersection of New Hampshire Avenue and Riggs Place, N.W.
2. The property was rezoned from R-5-C and SP-1 by the Zoning Commission in Order No. 281, dated June 14, 1979. The Commission determined that that change was appropriate "in order to allow for preservation and appropriate use of landmark buildings, many of which have historically not been used for residential purposes."
3. The subject property is improved with a three story plus basement structure. The building is currently vacant and is undergoing extensive renovation and restoration.
4. The subject building has been used for non-residential uses since 1949. It has been used by the Federal Republic of Germany as its Commercial and Economic Mission, the International Cultural Center College, the Kingdom of Lesotho Chancery, Antioch College and the Institute for the Study of Man. The last recorded certificate of occupancy, No. B-79354 dated May 5, 1972, authorized the premises to be used as "classroom and administrative office of an academic institution of higher learning (college) restricted to 35 students, 6 teachers, 4 administrative persons."
5. The applicant proposes to use the premises as the office of a law firm. The applicant would also have living facilities available for his own personal use on the top floor of the building, although the applicant testified he would not be a resident of the building.

6. The applicant testified that he is presently engaged in the practice of law on his own, and that he presently employs two secretaries and one secretarial assistant. The applicant further testified that he might employ additional lawyers in the future, but that the total number of lawyers including himself would not exceed four.

7. The west side of New Hampshire Avenue between R Street and Riggs Place is improved with six structures, including the subject premises and also contains one vacant lot. Four of those structures are currently used for non-residential purposes, including the Office of the Federal Naval and Air Attaches, the University Women's Club, the Jewish War Veterans and the Chancery of the Republic of Rwanda. The remaining two buildings, including the subject premises, are presently vacant. The building at 1706 New Hampshire Avenue has been vacant since 1964, and was last used as the German Chancery. The use of the subject site is described in Finding of Fact No. 4. The vacant lot is used for parking for the offices of the French Government. None of the properties in this block have been used for residential purposes for at least twelve years.

8. There are existing residential structures and uses in the R-5-B District to the west of the site along Riggs Place and on the east side of New Hampshire Avenue in the D/R-5-B and R-5-C Districts.

9. The proposed use is in harmony with the existing non-residential uses of this block.

10. The height, bulk and design of the existing structures are consistent with the height, bulk and design of other structures surrounding this property.

11. The applicant testified that there will be a maximum of ten persons employed at the premises. The applicant further testified that his law practice generates very little traffic, in that most of his clients do not usually come to his office. In any event, the Board finds that the applicant proposes a low level usage of the building, and that the size and scope of the use are such that no adverse traffic conditions will be created.

12. There is one parking space available at the rear of the building, which is reached via a driveway from Riggs Place. The applicant testified that the rear portion of the basement had been used as a garage at one point. The entrance has been bricked over and the space is not now accessible. The applicant testified that he intended to reopen the garage and use it for automobile parking in the future. One parking space could be accommodated in the garage, in addition to the one outside space.

13. There is no special treatment in the way of design, screening or landscaping of the subject property necessary to protect the value of adjacent property.

14. There was substantial testimony at the hearing and in the record from owners and residents of neighboring property in support of the application. The testimony indicated that the proposed use would upgrade the building and would not adversely effect the neighborhood.

15. Advisory Neighborhood Commission - 2B, by statement dated November 19, 1979 and by testimony at the hearing, opposed the application. The ANC argued that the building could be and should be used for residential purposes. The ANC argued that the proposed use would be inappropriate because it would be a further incursion of office use in predominantly residential surroundings, and because it could spawn illegal office use on adjacent residential streets. The ANC argues that three parking spaces are required under Sub-section 7202.1 of the regulations, that three parking spaces are not being required, that a parking variance is thus necessary, that no parking variance had been requested and that no variance was justified. The ANC further argued that the proposed use of the premises was vague.

16. The Dupont Circle Citizens Association opposed the application on some of the same grounds cited by the ANC.

17. As to the arguments cited in opposition to the application, the Board finds as follows:

- a. The applicant is not requesting a use variance, and is therefore not required to prove that he cannot use the premises for a residential purpose. Law office use is permitted in the SP-1 District as a special exception, and the Board is not required to find that the building cannot be used for residential purposes.

- b. In Findings of Fact No. 4 and 7, the Board cited the previous uses of this building and the subject block. The Board finds that this block is not in residential use, that rezoning of the site from R-5-B to SP-1 by the Zoning Commission specifically allows the Board to consider office use of this premises and that proposed office use is not an incursion into predominantly residential surroundings.
- c. As to the incursion of office uses into surrounding residential blocks, in Finding of Fact No. 8, the Board determined that the property to the east and west are zoned residential, and do not permit normal office use. Any uses which are in violation of the Zoning Regulations can be appropriately addressed by the Zoning Administrator.
- d. Sub-section 7201.1 of the regulations requires that parking spaces are required only for structures created after May 12, 1958. This structure was erected in 1909. Sub-sections 7201.2 and 7201.3 require parking to be provided in the case of change in use or change in intensity of use only if more parking is required under the changed or increased circumstances than the previous situation required. In the subject case, the last recorded use normally required seven parking spaces under Sub-section 7202.1. The present use normally requires at most three parking spaces in accordance with Sub-section 7202.1. The Board therefore finds that no parking spaces are required to be provide for office use of the subject premises.
- e. In Findings of Fact No. 5 and 6, the Board determined the specific use of the premises.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested relief is a special exception, the granting of which requires the applicant to prove that he has complied with the requirements of Sub-section 8207.2 and Paragraph 4101.44 of the Zoning Regulations. The Board concludes that the applicant has met the burden of proof, and that the proposed use meets the specifications of the Zoning Regulations. The use, height, bulk and design of the structure will be in harmony with the use, height, bulk and design of the block within which it is located. The low level of usage of the structure will not create any dangerous or objectionable traffic conditions. No special treatment is required. The Board therefore concludes that the special exception must be granted.

The Board further concludes that no variances are required, that the applicant has complied with the parking requirements and that the applicant is not required to prove nor the Board conclude that residential use of the property is not possible or reasonable.

As to the concerns expressed over the impact that the proposed building will have, the Board will limit by condition of the granting of the application the number of professionals who may occupy the building. The Board will further require the applicant, by condition of this order, to provide a parking space in the basement of the building. The Board further concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled, but for the reasons stated herein, arrives at a different conclusion from that urged by the ANC.


The Board concludes that approval of the application will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore ORDERED that the application is GRANTED, SUBJECT to the FOLLOWING CONDITIONS:

- a. The building shall be used as the offices of a law firm having a maximum of four professional employees.
- b. The applicant shall provide one parking space in the basement of the building as shown on Exhibit No. 27 of the record.

VOTE: 5-0 (William F. McIntosh, Charles R. Norris, Connie Fortune, Leonard L. McCants and John G. Parsons to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

6 MAR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.